

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 270 OF 2005

SMT.MARIA BERNADETTE
MASCARENHAS,CALANGUTE GOA

....Petitioner

Versus

KANTA N.MORAJKAR AND 3 ORS.,

....Respondents

Shri G.Vijaychandran,Advocate for the Petitioner.

Coram:- R. M. LODHA, J.

Date:- 20th October, 2005

P.C.:

Heard Mr. G. Vijaychandran, learned counsel for the petitioner.

2. The petitioner preferred an appeal before the Administrative Tribunal, Goa on 8.9.2004 aggrieved by the Judgment and Order 05.02.1996 passed by the Deputy Collector Collector and S.D.O., Mapusa. As the appeal suffered from delay of 8 years and 59 days, the petitioner made an application for condonation of delay. The Administrative Tribunal dismissed the said application by its Order dated 18.2.2005. Aggrieved thereby the present Writ Petition has been filed.

3. In the application for condonation of delay the following explanation was furnished :-

"The Applicant is a 75 year old widow. She lives alone at Nizmar Apartments, Calangute. She was settled in Calcutta with her husband and on his death in 1983, she came down and settled in Goa. Both her daughters are married and reside away from her. The elder daughter is settled in Calcutta after her marriage in 1976. The second daughter was

married in 1991 and also lives separately. The two sister-in-laws (adopted daughters of the Applicant's mother-in-law) viz., Conceicao Pais and Ruzai expired in 1/2/92 and 8/2/94 respectively. The mother-in-law expired in 1960 and father-in-law in 1950's. She is thus a lonely old lady. To add to this she suffered from Nervous breakdown, thyroid dysfunction and was operated for Breast Cancer and has been a total physical and nervous wreck due to these ailments since 1991. She is thus emotionally and physically drained old lady and without family support. She was thus not in a frame of mind to seek redressal when the operative part of the Dy. Collector's order was received by her and it was only when she received notice of the purchase application in May '04 that she shockingly realised that she was about to be deprived of her property. "

4. The fact that the petitioner was made aware of the Order dated 05.02.1996 passed by the Deputy Collector and S.D.O., Mapusa on 10th June, 1996 is not in dispute. The essence of the explanation put forth by the petitioner in her application was that she was a lonely old lady with no family support, and that she was unable to file the appeal in time; she suffered from nervous breakdown in the year 1991 and her breast cancer was detected in the year 1999.

5. In opposition to the application for condonation of delay, the respondent No.1 stated that in the month of August, 1992, the applicant filed a suit being Civil Suit No.93/92 and she also contested the tenancy case before the Court of Joint Mamlatdar between 11.11.1993 until 06.03.1995. The petitioner herself attended the proceedings before the Deputy Collector wherein the order dated 05.02.1996 came to be passed. There is no serious challenge to these facts by the petitioner. This would clearly show that despite the nervous breakdown that the petitioner suffered in the year 1991, she was mentally and physically fit inasmuch as in the month of August, 1992, she filed the suit and she herself contested the tenancy proceedings before the Joint Mamlatdar and also filed the appeal before the Deputy Collector. Thus, the explanation that the petitioner was suffering from nervous breakdown since 1991, is not of

much help to the petitioner. As regards breast cancer, admittedly it was detected in the year 1999. That would show that when the Judgment was passed by the Deputy Collector in the month of May, 1996, she was not sick that prevented her from challenging the Judgment of the Deputy Collector in time.

6. Having considered the matter thoughtfully, I find that the long delay of 8 years and 59 days is not explained and the application does not spell out sufficient cause for filing the appeal as late as by eight years and 59 days.

7. Consideration of the matter by the Administrative Tribunal does not suffer from legal infirmity. No case for invocation of extraordinary jurisdiction is made out.

Writ Petition is dismissed in limine.

R. M. LODHA, J.

sl.